



**The State of New Hampshire
Insurance Department**

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**Roger A. Seigny
Commissioner**

**Alexander K. Feldvebel
Deputy Commissioner**

BULLETIN

Docket Number: INS 06-003-AB

TO: All Property & Casualty Insurers Writing Commercial Lines Insurance Products &
All Insurers on the NAIC Quarterly Listing of Alien Insurers

FROM: Roger A. Seigny, Insurance Commissioner *RAS*

DATE: January 17, 2006

RE: Filing Procedures in Response to the Enactment of the Terrorism Risk Insurance
Extension Act of 2005

Background

Because of the high level of uncertainty in the commercial lines property and casualty insurance market and in light of the substantial losses experienced by the industry on September 11, 2001, Congress enacted and the President signed into law in November 2002, the Terrorism Risk Insurance Act of 2002 (The Act). This federal law provided a federal backstop for defined acts of terrorism and imposed certain obligations on insurers. The Act has now been extended for an additional two years through December 31, 2007 with the enactment of the Terrorism Risk Insurance Extension Act of 2005.

Revisions to the Initial Act

Several provisions of the initial Act of 2002 have changed in this extension. These changes include:

- Deletion of commercial auto, burglary and theft, surety, professional liability, and farmowners multiperil coverages from eligible lines;
- Increase in the individual company deductible for 2006 to 17.5 percent and the 2007 deductible to 20 percent;
- Increase in the industry aggregate retention level from \$15 billion to \$25 billion in 2006 and to \$27.5 billion in 2007;
- Reduction in the federal share of compensation for covered losses from 90 percent to 85 percent for 2007;

- Maintain the \$5 million threshold for certification of a terrorist act, while establishing a per event trigger for federal participation in aggregate insured losses of \$50 million for losses occurring after March 31, 2006 and before January 1, 2007 and \$100 million for losses occurring in the 2007 Program Year;
- Extension of existing litigation management provisions and codification of regulations requiring submission and approval of proposed settlements;
- Directing the President's Working Group on Financial Markets to study long-term availability and affordability of coverage for terrorism losses, including group life and nuclear, biological, chemical and radiological events.
- The President's Working Group on Financial Markets, in consultation with representatives of the National Association of Insurance Commissioners, the insurance and securities industries and policyholders, is directed to submit a report of its findings to the House Financial Services and Senate Banking Committees by September 30, 2006.

Submission of Rates, Policy Form Language and Disclosure Notices In Response to the Terrorism Risk Insurance Act of 2005

The intent of this bulletin is to outline the steps insurers should follow if they choose to revise policy language, rates and disclosure notices in response to the changes made in the 2005 Act. In many cases, insurers' current filings will not need to be revised.

However, if filings are revised, all provisions of RSA 412 applicable to commercial lines of business, including WC should be followed. Filing submission requirements as outlined on our website or our SERFF instruction pages should be reviewed and satisfied.

If an insurer relies on an advisory organization to file loss costs and related rating systems on its behalf, no rate filing is required unless an insurer plans to use a different loss cost multiplier than is currently on file for coverage for certified losses.

Any rate filer, seeking to revise its currently filed rates, should provide sufficient information for the reviewer to determine what price would be charged to a business seeking to cover certified losses. This state will accept filings that contain a specified percentage of premium to provide for coverage for certified losses. Insurers may also choose to use rating plans that take into account other factors such as geography, building profile, proximity to target risks and other reasonable rating factors. The insurer should state in the filing the basis that it has for selection of the rates and rating systems that it chooses to apply. The supporting documentation should be sufficient for the reviewer to determine if the rates are excessive, inadequate or unfairly discriminatory.

Insurers subject to policy form regulation must submit and receive approval for changes in the policy language that they intend to adopt in New Hampshire. The policy should define acts of terrorism and both certified and non-certified losses in ways that are consistent with the Act. The definitions, terms and conditions should be complete and accurately describe the coverage that will be provided in the policy. Insurers may conclude that current filings are in compliance with the Act, state law and the requirements of this bulletin, therefore, no filings are necessary.

The Commissioner requests that disclosure notices be filed for informational purposes, along with the policy forms, rates and rating systems, as they are an integral part of the process for notification of policyholders in this state and should be clear and not misleading to business owners in this state. The disclosures should comply with the requirements of the Act and should be consistent with the policy language and rates filed by the insurer.

Effective Date

This bulletin shall take immediate effect and shall expire on December 31, 2007, unless Congress extends the duration of the Act.